

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GREGORY CAVETTE,

Plaintiff,

Civil Action No.
07-CV-12007

vs.

HON. BERNARD A. FRIEDMAN

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**OPINION AND ORDER ACCEPTING AND ADOPTING
MAGISTRATE’S REPORT AND RECOMMENDATION,
DENYING PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT and
GRANTING DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

This matter is presently before the court on cross motions for summary judgment [docket entries 9 and 10]. Magistrate Judge Virginia M. Morgan has submitted a report and recommendation [docket entry 11] in which she recommends that the court grant defendant’s motion and deny plaintiff’s motion. Neither party has submitted objections, and the time for them to do so has expired.

The court has reviewed the parties’ briefs and the voluminous administrative record. The court is persuaded that the magistrate judge has correctly analyzed the issues in this case. Despite plaintiff’s claim that he is unable to work due to pain in his back, right groin, right hip and right leg, the Administrative Law Judge (“ALJ”) reasonably concluded that plaintiff is capable of performing a limited range of unskilled, light-level work and is therefore not disabled within the meaning of the Social Security Act. In particular, it is significant that the record contains no medical opinion, by a treating physician or otherwise, that plaintiff is disabled. Rather, the record contains

many statements by treating or examining physicians that plaintiff can work with restrictions (*see, e.g.*, Tr. 113, 220, 223, 224, 230, 231, 233, 273, 276, 280, 282). The record also contains many statements by physical and occupational therapists who worked with plaintiff that he has exaggerated his symptoms (*see, e.g.*, Tr. 130, 132, 133, 140, 141, 143, 157-58, 168). On this record, the ALJ was entitled to discount plaintiff's subjective testimony and to conclude that plaintiff can perform a limited range of light-level work. While the ALJ found that plaintiff cannot perform his past work, the jobs identified by the vocational expert are consistent with plaintiff's medical restrictions. Accordingly,

IT IS ORDERED that Magistrate Judge Morgan's Report and Recommendation is hereby accepted and adopted as the findings and conclusions of the court.

IT IS FURTHER ORDERED that plaintiff's motion for summary judgment is denied.

IT IS FURTHER ORDERED that defendant's motion for summary judgment is granted.

s/Bernard A. Friedman
BERNARD A. FRIEDMAN
CHIEF UNITED STATES DISTRICT JUDGE

Dated: March 24, 2008
Detroit, Michigan

I hereby certify that a copy of the foregoing document was served upon counsel of record by electronic and/or first-class mail.

s/Carol Mullins
Case Manager to Chief Judge Friedman